

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF RHODE ISLAND

BACON CONSTRUCTION CO., INC.,

Plaintiff,

v.

NORTHERN INSURANCE COMPANY OF
NEW YORK AND MARYLAND
CASUALTY COMPANY

Defendant.

CIVIL ACTION NO. _____

NOTICE OF REMOVAL

Defendant Zurich American Insurance Company, as successor by merger to Northern Insurance Company of New York and Maryland Casualty Company (“Defendant”) notices the removal of this case from Providence County Superior Court for the State of Rhode Island (the “State Court”), to the United States District Court for the District of Rhode Island (the “District Court”), as authorized by 28 U.S.C. §§ 1332, 1441 and 1446. The grounds for removal are as follows:

1. Plaintiff Bacon Construction Co., Inc. filed a Complaint (the “Complaint”) against the Defendant on or about May 19, 2016 in a suit styled, Bacon Construction Co., Inc. v. Northern Insurance Company of New York et al., Civil Action No.: 16-2284 in Providence County Superior Court for the State of Rhode Island (the "State Court Action").

2. Defendant was served with a copy of the Plaintiff’s Complaint on June 3, 2016. A copy of the Complaint, Summons and Notice of Service of Process to Northern Insurance Company of New York is attached hereto as Exhibit “A”. A copy of the Complaint, Summons

and Notice of Service of Process to Maryland Casualty Company is attached hereto as Exhibit "B".

3. With the exception of the Complaint, Summons and Notices of Service of Process, Defendant has not received any other pleadings or orders in the State Court Action. To the Defendant's knowledge, with the exception of the Complaint, there have been no further proceedings in the State Court Action.

4. Removal is timely under 28 U.S.C. § 1446(b), as fewer than 30 days have passed since Defendants were first received copies of the Complaint.

5. The Plaintiff seeks a declaratory judgment concerning the Defendant's denial of coverage with respect to a construction defect claim asserted against Plaintiff by the State of Connecticut. The underlying claim arises out of Plaintiff's masonry work on a construction project involving a "correctional facility," which entailed "twenty-two buildings and five phases." The construction defects alleged in the underlying claim included "... water intrusion, cracks in the masonry façade and efflorescence and organic growth on the masonry façade[.]"

6. According to the Plaintiff, the actions of Defendant with respect to investigating the underlying claim, and in denying coverage for the claim, were improper.

7. Based on the size of the construction project, the extent of the construction defects alleged in the underlying claim, and Plaintiff's demand for "... compensatory, punitive damages, attorneys' fees and costs[.]" Defendant asserts that the amount in controversy exceeds \$75,000.

8. The parties to this action are of diverse citizenship:

- (a) The Plaintiff has a principal place of business located in East Providence, Rhode Island;
- (b) Defendant has a principal place of business located in Schaumburg, Illinois.

9. This Notice of Removal is being filed in the United States District Court for the District of Rhode Island, the District Court of the United States for the district and division within which the State Court Action is pending, as required by 28 U.S.C. §§1446(d).

10. In accordance with 28 U.S.C. 1446(d), written notice of the filing of this Removal Notice will be given to all parties to this suit and will be filed with the clerk of the Providence County Superior Court in the form attached hereto as Exhibit "C", following the filing of this notice.

11. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure, as required by 28 U.S.C. § 1446(a).

12. In submitting this Notice of Removal, Defendant reserves all defenses to this action.

Respectfully submitted,

ZURICH AMERICAN INSURANCE COMPANY, as successor by merger to NORTHERN INSURANCE COMPANY OF NEW YORK and MARYLAND CASUALTY COMPANY,

By its Attorneys,

/s/Scarlett M. Rajbanshi
Timothy O. Egan, #9239
Scarlett M. Rajbanshi, #7800
Peabody & Arnold LLP
600 Atlantic Avenue
Boston, MA 02210-2261
Tel. (617) 951-2100
Fax. (617) 951-2125
tegan@peabodyarnold.com
srajbanshi@peabodyarnold.com

Dated: June 24, 2016

CERTIFICATE OF SERVICE

I, Scarlett M. Rajbanshi, hereby certify that on this 24th day of June 2016, I served the foregoing document by mailing same, postage prepaid, first-class mail to the following:

Girard R. Visconti
Shechtman Halperin Savage LLP
1080 Main Street
Pawtucket, RI 02860

/s/ Scarlett M. Rajbanshi
Scarlett M. Rajbanshi

959182_1